



TOWN OF HUDSON

Planning Board



Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison

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HUDSON PLANNING BOARD MEETING MINUTES October 6, 2010

I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 8:02 p.m. on Wednesday, October 6, 2010, in the Community Development meeting room in the Hudson Town Hall basement, following a nonpublic attorney/client meeting with the Town Attorney.

II. PLEDGE OF ALLEGIANCE

Chairman Russo asked Mr. Barnes to lead the assembly in pledging allegiance to the Flag of the United States of America.

III. ROLL CALL

Chairman Russo asked Mr. Malley to serve as Acting Secretary and to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

Members

Present: James Barnes, George Hall, Tim Malley, Vincent Russo, and Richard Maddox (Selectmen's Representative).

Members

Absent: Ed van der Veen (excused); Suellen Quinlan (resigned).

Alternates

Present: Stuart Schneiderman and Ken Massey (Selectmen's Representative Alternate).

Alternates

Absent: None. (All present.)

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Staff

Present: Town Planner John Cashell.

Recorder: J. Bradford Seabury.

IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Russo seated Mr. Schneiderman in place of the absent Mr. van der Veen.

V. MINUTES OF PREVIOUS MEETING(S)

Chairman Russo stated that review of the minutes of past meetings would be deferred to the next meeting.

VI. CASES REQUESTED FOR DEFERRAL

Chairman Russo noted that no cases had been requested for deferral for this meeting.

VII. CORRESPONDENCE

Chairman Russo stated that items of correspondence received in tonight's handouts would be taken up in conjunction with the associated cases, with any remaining items being taken up under **Other Business** at the end of the meeting.

VIII. PERFORMANCE SURETIES

No **Performance Sureties** items were addressed this evening.

IX. ZBA INPUT ONLY

No **ZBA Input Only** items were addressed this evening.

X. OLD BUSINESS/PUBLIC HEARINGS

- A. Presentation and Discussion on the Prime Wetlands Study. Presenters: Town of Hudson Conservation Commission. Deferred Date Specific from the September 8, 2010 Workshop.**

Chairman Russo read aloud the published notice, as repeated above, noting that James Battis, Tim Quinn, and Sandra Rumbaugh from the Conservation Commission were present.

Mr. Tim Quinn, 1 Fuller Drive, Chairman of the Conservation Commission, stated that four wetlands had been removed from the previously proposed packet.

Ms. Sandra Rumbaugh, 39 Beechwood Road, a member of the Conservation Commission, said she wanted to cover the maps, noting that there were now 13 wetlands involved in the proposed warrant article, to be designated as Prime Wetlands. She presented a PowerPoint review of the maps, showing breakdowns of where the wetlands were located. She then reviewed the Impacted Property Analysis report, enumerating impacts of 100 feet, 50 feet, and 0 feet with respect to existing structures, including aerial photographs showing some of the structures that had been identified, with colored buffer lines shown for 50 feet, 100 feet, and 150 feet. Members of the Board clarified the designations for the TV-viewing audience, clarifying that the intent was to move the buffer from 50 feet (yellow arrow) to 100 feet (red line) for the 13 designated wetlands.

Chairman Russo expressed concern about the confusion being expressed by members of the Board in identifying the setbacks, suggesting that less-informed citizens would be even more confused.

Ms. Rumbaugh referenced the summary tabulation, noting that it delineated the number of structures within the three zones. Selectman Massey clarified that the only people that would be impacted would be zero in number, as existing structures would be grandfathered. Ms. Michelle Champion, 7 Chiswick Road, having joined the other members of the Conservation Commission, noted that anyone living in a house that was right on the line would be affected if they wanted an addition, but the others would have space for decks, secondary structures, etc.

Ms. Rumbaugh displayed the proposed warrant article and then read it aloud as a mater of record.

Chairman Russo asked if there were any further comments from the Conservation Commission to explain this, saying he now understood what was intended, after hearing Ms. Champion's explanation.

Mr. Hall asked if the Conservation Commission would be providing a drawing showing where the wetlands were located. Mr. Quinn said the maps did that. Mr. Hall said the maps did not clearly differentiate between the paired wetlands, adding that the original maps included the wetlands that had been dropped from the list. He expressed concern about defining where the wetlands were, saying it was not clear where one ended and another began. He then suggested a wetland scientist would be needed to address any work being proposed in the new areas, saying he felt there might be a significant difference between what was shown (based on aerial photographs) and what was actually the case—adding that it might be dangerous to have these charts floating around. Mr. Quinn said the boundaries were established by VHB (Vanasse Hangen Brustlin, Inc.). Mr. Hall said "No way." Ms. Champion said the boundaries were approximate estimates, saying she had added that comment because she found actual

differences when using AutoCad. She also noted that the wetlands might change over time. Mr. Hall said he felt the Conservation Commission needed a map showing the current descriptions. He noted that the fourth previously-designated wetland that had been removed from the list had been in the path of the highway corridor. Ms. Champion expressed a belief that Mr. Hall was talking about the master map; she said the breakdown maps clearly differentiated the pairs. Mr. Hall noted that no numerical designations were given in the analysis sheet. Ms. Rumbaugh said the numerical designations were included in the proposed warrant article.

Selectman Maddox said the Board members should compare this information against what was on the Web site.

Mr. Quinn said they were here for a vote tonight.

Mr. Barnes clarified that the Conservation Commission was looking for the Planning Board to move this forward to the town warrant. Mr. Hall said there would have to be a public hearing. Mr. Barnes concurred, saying the Board could vote to move it to a public hearing. Mr. Hall expressed a belief that a document was needed before the Planning Board could schedule a public hearing, noting that there had been changes since the original document was prepared. Ms. Rumbaugh said the only difference was that she had included the map IDs.

Town Planner Cashell displayed a map from the Website. Chairman Russo said he could tell from that map what properties were affected. Mr. Hall asked where Wetland 18A was shown. Mr. Cashell showed the corresponding aerial map, with the contour lines marked.

Chairman Russo noted that there was no staff-prepared motion before the Board. Mr. Cashell said a public hearing could fit in nicely with the presentation from the Lower Merrimack River Advisory Commission at the November workshop meeting.

Selectman Maddox moved to put the proposed warrant article on the agenda for a public hearing on November 3rd, 2010. Mr. Barnes seconded the motion.

Selectman Maddox said this had been a long process, and he thought the matter should be moved to a public hearing at this time, noting that the information would be on the Website and members of the public could examine that and then come in and give public input. Mr. Barnes said the definitions and appropriate language would be available at the public hearing. Mr. Cashell noted that it was listed on the Town's Website in the Resources section, with the appendix showing each individual wetland designated for Prime Wetland designation. Mr. Hall asked if this document (the proposed Prime Wetlands warrant article) would be on the website; Mr. Cashell answered in the affirmative.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor except for Mr. Hall who abstained, and Chairman Russo declared the motion to have carried unanimously (5-0-1).

Selectman Massey expressed a belief that a definition of "Prime Wetlands" also needed to be included in the public hearing, noting that this had been provided last year. Ms. Rumbaugh said she could provide it, and she produced a copy from her notes; Selectman Maddox requested a recess to give Town Planner Cashell time to obtain copies of the referenced text.

Chairman Russo declared a break at 8:46 p.m., calling the meeting back to order at 9:04 p.m.

Town Planner Cashell distributed copies of the handout that had been distributed on January 19, 2010, showing the proposed definition for "Prime Wetlands."

Selectman Massey suggested that the language should be what had been provided before but with one additional change—that after the definition of Prime Wetland an additional sentence should be added, stating that the 13 wetlands designated as Prime Wetlands were as numbered on the maps.

Selectman Maddox said Mr. Cashell should draft it with those change and have it ready for the public hearing, which would be the next Planning Board meeting because of the Law Lecture series.

**B. Parkland Terrace II
SP# 03-10**

**Map 160/Lot 104
Windham Road**

Purpose of plan: To construct eight town-house residential units with associated parking. Hearing. Deferred Date Specific from the 08-25-10 Planning Board Meeting.

Chairman Russo read aloud the published notice, as repeated above.

Selectman Maddox stepped down, as he had done in the past with respect to this plan. Chairman Russo seated Selectman Massey in Selectman Maddox's place.

Town Planner Cashell said he had nothing to add to his staff report at this time.

Mr. Richard Maynard, Professional Engineer, of Maynard & Paquette, Engineering Associates, LLC, appeared before the Board as the engineering representative of the applicant, accompanied by Atty. Morgan Hollis and the applicant, Mr. Manny Sousa. Mr. Maynard reviewed what was being proposed, saying Mr. Sousa had finally received the Attorney General's approval for the third building and some of the units had been sold, adding that the playgrounds had been put in place and hydroseeded, and that the only thing remaining was to put the fence around them, which should be completed within the next two weeks. Regarding trash, he said he had discussed this matter with Road Agent Burns, who had provided a memo saying he had no concerns. He noted that four waivers were requested: noise, traffic, underground utilities, and a third driveway. He said sight distance was over 500 feet in both directions, saying the project was ready for approval. He then distributed large-size plans to those members of the Board who wanted them.

Chairman Russo opened the meeting for public input and comment in favor.

Mr. Kevin Sullivan, Windham Road, said he lived in a condo on Windham Road, saying he understood there had been issues with traffic and children; he said he knew of only one family in this development with a child, so there was no safety concern. He said the main traffic problem was the morning between 6:30 to 8:30 a.m. from people cutting Route 111 traffic, so there was no problem. He said he could not remember the last time he had responded to an accident near that location. He said the area for trash barrels was all fenced in and no trash barrels could be seen by people driving by, concluding by saying he was in favor of the project.

No one else coming forward in favor, Chairman Russo asked if anyone wished to speak in opposition.

Mr. Ray Belanger, 60 Windham Road, said the original project was approved for dumpsters, saying the project now seemed to be acceptable to the Road Agent, but he was concerned that what was supposed to be done originally had never been done. He expressed a belief that buildings with three units each would be more consistent and would move the construction away from the wetlands. He said he would be interested in hearing whatever the public could hear about what the Town Attorney had said about the project.

No one coming forward to provide input despite a last call for input in favor or opposition, Chairman Russo declared the matter before the Board and asked if any members of the Board had any questions.

Selectman Massey said a question had been raised about a designated area where trash barrels enclosures were being held, saying he did not see any such site designated on the plans. Mr. Maynard said he had shown that last time, and he pointed to them on Selectman Massey's copy of the plan. Selectman Massey asked how the truck got in there. Mr. Maynard said they did not, saying the owners brought the trash barrels out to the road—adding that there were three different areas, on the edge of the travel way. Mr. Maynard said he thought Mr. Burns's letter was quite clear. Selectman Massey said it was not clear that the proposed addition was included.

Mr. Schneiderman asked to be shown where the trash storage areas were, saying he could not find them on the plan, either. Mr. Maynard identified the locations, marking them on the copies of the plan held by Mr. Schneiderman. Mr. Maynard concurred at that time that it was not shown on that plan, the earlier version, by an oversight, saying it was on the subsequent plan.

Mr. Maynard said the plan was the plan, and the practice of bringing the trash barrels to the pavement was all the same in this town. He said Road Agent Burns's letter was quite clear, saying it was fine and safe and followed the rules of this community.

Selectman Massey asked if, when Mr. Maynard discussed this with the Road Agent, that discussion had included the eight additional units. Mr. Maynard answered in the affirmative, saying Road Agent Burns had reviewed the plans.

Mr. Schneiderman noted that Road Agent Burns's memo said he had no concerns with the current collection plan; he then asked what the "current collection plan" was. Mr. Maynard said "plan" was just a word, saying Mr. Burns was clearly saying that he

had reviewed the plans. Mr. Schneiderman asked if Road Agent Burns had watched the pickup from the three existing buildings. He read aloud the text, saying Road Agent Burns had gone to see the removal of trash of the existing buildings—adding that it did not say he had reviewed any collection plans for the new building. Mr. Maynard said he did not want to debate this any longer. Mr. Schneiderman said he was confused by what Mr. Maynard was saying.

Mr. Barnes moved to grant the requested waiver of HTC §275-9B, Traffic Study, citing the reason for his motion as being because the traffic volume associated with this project was not expected to impact the associated roadway network, and as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Mr. Hall seconded the motion.

Mr. Schneiderman asked how many additional trips would result from these new buildings. Mr. Maynard gave a figure of 8 to 10, saying it would be 10 trips per peak hour. Mr. Schneiderman said this would be from 64 to 80 trips for this added development. Mr. Maynard said he had submitted a traffic safety memo before, on June 11th; he then submitted another copy, complaining that the Board was going over these same issues again. Mr. Schneiderman asked who had written the memo; Mr. Maynard said he had written it, noting that he was a licensed professional engineer.

VOTE: Chairman Russo then called for a hand vote on the motion. All members present voted in favor except for Mr. Schneiderman, who voted in opposition, and Chairman Russo declared the motion to have carried (5–1-0).

Mr. Barnes moved to grant the requested waiver of the requirements of HTC §275-9C, *Noise Impact Study*, citing the reason as being because the projected noise levels associated with this project were restricted to those provided within the Town Code Noise ordinances and, as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (6–0).

Mr. Barnes moved to grant the requested waiver of the requirements of HTC §193-10 G, *Multiple Driveways*, citing the reason as being because the proposed driveways shown on the plan provided safe and adequate sight distance in accordance with the distance required in the Planning Board's Driveway regulations and, as such, the granting of this waiver was not contrary to the spirit and intent of the said Driveway regulations.

Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (6–0).

Mr. Barnes moved to grant the requested waiver of the requirements of HTC §275-9 (E), *Existing & Proposed Utilities (electric, cable & telephone)*, citing the reason as being because all principle utilities, both existing and proposed, were provided on the plans, with their specific final locations being subject to the decision of each respective utility company, and said final utility locations shall be shown on the “As-Built” plans—and, as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (6–0).

Chairman Russo asked for direction from the Board.

Selectman Massey said he did not have the CLD comments referenced in the staff report with respect to onsite drainage. Town Planner Cashell provided Selectman Massey with a copy, which Selectman Massey then read while the discussion continued.

Mr. Hall asked if Mr. Maynard had completed a stormwater pollution prevention plan (SWPPP). Mr. Maynard said that was done after the Planning Board action and prior to construction and was then submitted to the EPA, the same way that erosion control was handled. Mr. Hall said it should be done before signing and recording of the plan. Mr. Maynard contended it was always done that way, saying it was a construction document. Mr. Hall expressed objections, saying it should be done so that the Board’s consultant could review the plan and see what was to be done. Mr. Maynard said the SWPPP plan was a notice-type document with a set of erosion control plans that would be filed with the EPA. Mr. Hall asked when Mr. Maynard proposed to prepare it; Mr. Maynard said it would be done before construction was started.

Selectman Massey said he was satisfied with the CLD text he had been reading, based on Mr. Hall’s comments.

Mr. Barnes moved to approve the site plan entitled ***Parkland Terrace II, Windham Road, Hudson, NH***, prepared by Maynard & Paquette, Engineering Associates, LLC, and dated May 10, 2010, revised through August 9, 2010, consisting of Sheets 1 through 5 and Notes 1 through 25, shown on Sheet 1, in accordance with the following terms and conditions:

1. All stipulations of approval shall be incorporated into the Development Agreement, which shall be recorded at the Hillsborough County Registry of Deeds, together with the Site Plan-of-Record.

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2. Prior to the Planning Board's endorsement of the Site Plan, the Development Agreement shall be favorably reviewed and recommended on by Town Counsel.
3. All improvements shown on the Site Plan-of-Record, including Notes 1 through 25, shall be completed in their entirety and at the expense of the applicant or his assigns.
4. A cost allocation procedure amount of \$320.11 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy for each unit.
5. A public school impact fee in the amount of \$1,295.00 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy.
6. A public library impact fee in the amount of \$124.00 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy.
7. A recreation contribution in the amount of \$400.00 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy.
8. If development involves blasting and/or ramming of bedrock materials, said activities shall be limited to the hours between 7:00 a.m. and 5:00 p.m., Monday through Friday only. (Said blasting/ ramming activities shall be prohibited on Saturday and Sunday.)
9. After the issuance of the foundation permit for each of the structures included in this Site Plan and prior to the issuance of each framing permit, the applicant shall submit to the Hudson Community Development Department foundation "As-Built" plans on a transparency and to the same scale as the approved site plan. Each foundation "As-Built" plan shall include all structural dimensions and lot line setback measurements to the foundation and shall be stamped by a licensed land surveyor. Any discrepancy between the approved site plan and foundation "As-Built" plan shall be documented by the applicant and shall be part of the foundation "As-Built" submission.
10. Prior to the issuance of a final certificate of occupancy, an LLS-certified "As Built" site plan shall be provided to the Town of Hudson Community Development Department, confirming that the site conforms with the Site Plan-of-Record.
11. Construction activities on the site shall be limited to between 7:00 a.m. and 7:00 p.m., Monday through Friday. (No construction activities shall occur on Saturday and Sunday.)
12. This approval shall be subject to final engineering review, including approval of the SWPPP.
13. The applicant or his assigns, at his/her expense, shall be responsible for repairing all construction cuts on Windham Rd., and this work shall be properly bonded with the Town of Hudson.
14. All applicable terms and conditions of approval for Phase I of the Parkland Terrace Townhouse development, approved by the Hudson Planning Board on

December 3, 2003 (HCRD Plan # 34064), including the Development Agreement (Book 7505, Page 0051), shall remain in effect.

15. Waste pick-up shall include one additional dumpster location in addition to the two dumpster locations shown on the above-cited Phase I Site Plan for Parkland Terrace Townhouse Development.
16. With this approval, Notes 18 and 19 of the said Phase I Site Plan shall become null and void; in effect, waste removal for both Phase I and Phase II Parkland Terrace shall be the responsibility of the Town of Hudson, and said waste shall be removed exclusively to the three established dumpster locations.

Mr. Maynard referenced the last stipulation, saying it was not a dumpster, but a trash enclosure, saying these were individual trash barrels. Chairman Russo said the given text was what the Board would be voting on.

Mr. Schneiderman seconded the motion.

Chairman Russo asked if there were any discussion.

Selectman Massey asked for clarification about approval of the condominium agreement, saying there was nothing there about that. Chairman Russo noted that this was usually included. Town Planner Cashell said it could be included. Selectman Massey said he did not want to do anything that had not been done in the past. Mr. Cashell said the Town of Hudson presently did not have any jurisdiction over condominium ownership. Mr. Hall said every time the Board had looked at a condo that item had been included; but it had not happened in this case because the condos did not exist before, at the time of the original approval. Town Planner Cashell said the owner had been able to change the units from apartments to condominiums, under New Hampshire law. Selectman Massey said he understood that, but the Board had always included it before. Mr. Barnes said he would need the specific language in order to include it in the motion. Town Planner Cashell proposed an amendment of Stipulation #2 to read "and all condominium documents" should be favorably reviewed by the Town Attorney along with the Development Agreement. Mr. Barnes, as the maker of the motion, agreed to accept the revised text as a friendly amendment; Mr. Schneiderman concurred, so that Stipulation 2 would read as follows:

2. Prior to the Planning Board's endorsement of the Site Plan, the Development Agreement and all associated condo documents shall be favorably reviewed and recommended on by Town Counsel.

Selectman Massey asked for clarification on #9, asking what would happen if the "As-Built" violated any of the ordinances, and saying there was no remedy to say the site plan would then be invalidated, as this stipulation had no teeth. Mr. Hall said they presumably would not get a Building Permit until the foundation plan was approved. Mr. Maynard said they could also come back to the Planning Board with an amended plan. Selectman Massey said this motion was clearly stating that the Town would pick up dumpsters on the pad-sites currently existing as well as the third one to be constructed.

Mr. Maynard objected, saying this was not part of any discussion. Chairman Russo called for order, saying Mr. Maynard had stated that he had had a discussion with Road Agent Burns and it was very clear. He said the Planning Board was not causing any issue, as the Town would still be picking up the trash. Mr. Maynard said his objection stood, as this would be discrimination on his letter, and this was not what Road Agent Burns had said. Selectman Massey pointed out that the Shepherd Hill site was picked up as dumpsters. Mr. Maynard said the method of trash removal was not in the jurisdiction of this Planning Board. Mr. Hall objected that Chairman Russo had not recognized Mr. Maynard. Chairman Russo said this was what the Planning Board had agreed to approve, saying the applicant could come back with an amended plan if he did not agree, saying he did not see what the objection was. Mr. Maynard said he had put his objection in the record and did not need to speak anymore.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (6-0).

Selectman Maddox returned to his seat, with Selectman Massey resuming his normal status as a nonvoting alternate.

**C. 75 River Road (Fueling Station)
SP# 06-10**

**Map 251/Lot 10
75 River Road**

Purpose of plan: Site plan showing the construction of a 3,200 sq. ft. retail building with retail gasoline sales, convenience mart and drive-thru fast food window, together with associated parking at 75 River Road. Application Acceptance & Hearing. Deferred Date Specific from the 09-08-10 Planning Board Meeting.

Mr. Hall stepped down, as he had done in the past with respect to this site.

Chairman Russo read aloud the published notice, as repeated above.

Town Planner Cashell said the applicant was not here for final actions but to discuss a few issues left over from the previous meeting. Mr. Emile J. Houle, of RES/COM Builders, & Developers, Inc., the principal, said he was not looking for a fast-food operation, saying it was more of a take-out sort of thing. He then submitted a small sketch he had drawn up to show what the operation would be, showing the coffee shop as measuring about 800 ft², with an office area and storage area. He noted that the accompanying letter listed the requirements. He said this was more of a drive-through take-out restaurant, not a fast-food restaurant.

Mr. Brian Milisci, PE, of Whitman & Bingham, the engineering representative of the applicant, passed out copies of a parking plan, saying it tried to make better use of the building to clarify how many parking spaces would be required, and he then displayed a larger copy of the same plan on an easel for the public's benefit. Selectman Massey said it would be easier if the easel were located at the front, so that the television

audience could see it. Mr. Milisci moved the plan and then discussed details of the plan, noting there were six fuel dispenser units (each with parking spots). He said there would be three employees at the largest shift, with someone always on duty for the fueling operation. He said 25 spaces would be required, noting that seven spaces were now shown for employees and there was a total of 27 spaces—adding that he needed to get the parking requirement nailed down before he could complete the plan. He said he felt strongly that what was shown for storm water management for the site was responsive. He identified the displayed plan as ***Proposed Parking Plan, Judson, New Hampshire, prepared for RES, LLC, 2010, Map 251/Parcel 10, 75 River Road***—noting that it was labeled 3200-ft² building on the top.

Chairman Russo opened the meeting for public input and comment, in favor. No one coming forward to provide input in favor, Chairman Russo asked if there were any public input or comment in opposition, or with questions.

Ms. Jeanette Senko, 11 Eayers Pond Road, said she was opposed for various reasons, including well water contamination and safety. She noted a Dunkin' Donuts in Andover did a brisk business without a drive-through, saying eliminating the drive-thru operation would get rid of a lot of the concerns. She said the property was not the best, and there would still be problems with fuel delivery.

Mr. Tom Sommers, licensed engineer, representing Ms. Doris Ducharme, 76 River Road, across the street from the proposed site, said he had brought up the concern about storm water management, saying Ms. Ducharme had concern about her property being affected, and also by fuel deliveries. He said the status of the state driveway permit was also to be addressed.

Ms. Marilyn McGrath, 81 River Road, said she lived two properties away. She said she had a question about the hours of operation and the delivery time for fuel and grocery-type items. Chairman Russo asked the applicant to address those questions. Mr. Milisci said the hours of operation would be near 6:00 a.m. to 10:00 p.m., but no schedules had been set for delivery time of fuel and retail merchandise. He argued that a set delivery time certainly would not coincide with the patronage peak hour traffic.

Ms. McGrath said she had indicated to Town Planner Cashell earlier that her concerns were signage and noise, but on reflection she had concerns about the intensity of use for this size of lot, which was a small lot on the corner of a very busy road, which had been much more dangerous until being somewhat straightened. She said two driveways with two entrances and exits would cause serious problems, with a potential for increased accidents. She said she was also concerned about the noise issue, which would be problematic if delivery time were at night, which was likely unless restrictions were applied. She said another concern was lighting and how it would affect the neighborhood, noting that the lighting of the storage shed across the street had definitely affected her home. She said she also had concern about odors that might come about because of cars standing in the driveway waiting to pick up their order, as well as from the dispensing of gas. She said she would encourage the Planning Board not to waive the 100-foot buffer requirement, noting that it would affect her brother's property, and she would also encourage the Board not to grant the second driveway.

Mr. Tim McGrath, with property at 79 River Road, said he did not object to development of the property but he did not think this was the right development, as it would affect his business. He said this was a small lot, and this business depended on traffic. He referenced other sites, saying he had concerns about the lighting. He said something with low volume would be much more preferable.

Chairman Russo asked about the radio frequency issues that Mr. McGrath had raised before, at a prior hearing. Mr. McGrath said his customers dealt with this, saying a lot of it had to do with signal strength, as even wires could act as a transmitting antenna. He said anything other than ground-level lighting would impact his testing business, adding that almost every type of electrical equipment generated signals that would affect him. He said businesses were not required to meet the requirements by the FCC, but they occurred. Chairman Russo asked if Mr. McGrath could offer any guidance as to where they could go for information. Mr. Milisci asked if he could contact Mr. McGrath to find out information that his lighting person was asking for. Mr. McGrath expressed his willingness to receive Mr. Milisci's call.

Selectman Massey asked Ms. Beverly Landry (the current property owner) when the lights had last been on; she gave a figure of a year and a half ago. She said the building had a lot of electrical devices that had been running for a long time. Selectman Massey asked if those things had been affecting Mr. McGrath's business—especially the big sign out front. Mr. McGrath said he took measurements of energy radiating off a product, testing from 30 MHz up to GHz frequencies; he said he could see someone turn on a cell phone, as well as interference from BAE. As more businesses came around him, he said, the effect would be added. Selectman Massey asked about the line to the light; Mr. McGrath said the energy could come up the line even when the device was turned off. Selectman Massey commented that Mr. McGrath had been operating without problems so far. A gentleman in the audience declared that the sign had not been operating for years. Mr. McGrath described his testing, saying that what was being proposed would create a broadband range, saying he could not know if it would be enough for him to do his testing until the building was up.; He then expressed concern that the applicant would not accept his suggestions, saying this was a potential problem to his business.

Ms. Marilyn McGrath said she had a concern about signage, noting that the note on the plan said the Planning Board would have to approve the sign, but the Town now had an ordinance to allow flashing signs. She then expressed concern about runoff impact to Limit Brook, which was being considered for designation as a Prime Wetland. She said she also did not begrudge Ms. Landry for selling her property, but she felt this particular use was too intense for this size lot and for this area.

No one coming forward to provide further input, despite another request by the chairman for comment for or against, Chairman Russo declared the matter before the Board and asked if any members of the Board had any questions.

Selectman Maddox said a quarter of the building would be a doughnut shop—saying every doughnut shop he had seen had more than two employees for operating hours, and he expressed concern about stacking of customers going out to the road. He then said the proposed loading zone looked nice on paper but there was no assurance it

would be used, as trucks preferred to use what was convenient to them. Without a decision as to what to do with the 100-foot buffer, he said, everything else was moot, as parking would change dramatically if that were refused.

Mr. Barnes said he was still concerned about traffic flow within the site, saying it appeared that most of the driveway to the rear would be blocked by delivery trucks. He then said there were no details about the proposed screening, saying it would have to block the light from headlights from shining on residential houses next door from day one, noting that arbor vitae would take a long time to grow enough to do that.

Mr. Milisci asked Selectman Maddox to clarify his comments about a change of parking if the 100-foot buffer were not waived. Selectman Maddox responded that, if they had to do something with a 100-foot buffer, they would lose a certain amount of acreage. Mr. Milisci said he thought the way the regulation read would render more than half the property unbuildable, in which case this proposed use would not fit on the site.

Chairman Russo said he felt four or five of the parking spaces would be affected by customer use in the drive-through, as there would not be enough room for anyone parked there to maneuver out of there. He said 25 feet of space would be needed, so he did not see how these would be usable parking spaces during normal business hours. Mr. Milisci said it would be just like normal use of a maneuvering space for a parking lot. He said anyone parking there would have to wait until the blocking vehicle moved.

Mr. Milisci referenced Mr. Sommers' concerns, saying NH-DOT had received the plans but he was still waiting for a meeting with that organization. He said the plan was drawn to New Hampshire standards, and he reviewed the use of the two driveways, saying delivery vans would not impede traffic. He said he felt this was the best way to do it. Addressing drainage, he said the drainage was submitted as part of the site plan, and there was no impact to River Road whatsoever, noting that the land fell away to the rear and everything would be picked up by retention basins placed as on the plan. If the system were to fail, he said, there would be no impact on River Road, as the site was approximately 8 feet lower at the bottom of the basin than the roadway, saying the system was designed to protect Limit Brook, and that no abutting properties would be affected at all. He said they would be amenable to direction from the Board on hours of operation and delivery times, saying they would try to be sensitive to some of the abutters. He said they had a lighting plan being developed, reiterating that neither he nor the lighting engineer had ever heard of the issue of electromagnetic disturbance that had been raised by Mr. McGrath.

Mr. Schneiderman said the drive-through to the rear of the property looked problematic, as it dropped four feet in front of the seven parking spots. Mr. Milisci said Mr. Schneiderman was looking at the existing grading, not the proposed grading. Mr. Schneiderman said he still considered it problematic, and he asked if they would consider designing it without the drive-through. Mr. Milisci said that was a big part of it. Mr. Houle said customers in drive-throughs would get what they wanted and then go, saying he saw more impact if it were a sit-down restaurant. Mr. Schneiderman said he felt it was just too much, saying he saw doughnut shops that did not require a drive-

through operation. Mr. Houle said he would look at that as a possibility, but he had thought a drive-through would be more efficient.

Chairman Russo said he thought a turning lane had been suggested. Mr. Milisci said the traffic engineer had not been invited this evening but he probably would be present next time, but they had said this operation did not meet the left-turn analysis requirements, and they did not feel the DOT would require it.

Selectman Massey noted that it was 10:40 p.m. Town Planner Cashell said he would stay past 11:00 p.m.

Mr. Houle said they were looking into a vinyl stockade fence along the left side that would block the lighting and sound issues. Mr. Malley asked what color of fence was proposed; Mr. Houle suggested almond.

Town Planner Cashell said drive-throughs were usually the biggest problem, and dropping that from this site would be a big plus. Mr. Houle said he had no objections to looking at that, as it would enable them to move the building further away from Mr. McGrath's business but they would still have the 100-foot buffer issue. Chairman Russo said they would still have to do something to mitigate and it would depend on what they came back with. Selectman Maddox noted that there would not be all the cars at the back of the property. Mr. Houle said the loading dock would be there. Town Planner Cashell said the sign could be on the northern part of the property. Mr. Houle said it might actually work out better for the neighborhood with respect to sound and lighting. Town Planner Cashell said the CAP fee would be reduced, as well.

Selectman Maddox moved to defer further action on this plan to the meeting of November 2nd, Mr. Barnes seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (5-0).

Mr. Hall returned to his seat at the table as a sitting member.

**D. C & M Machine Products (Additions)
SP# 08-10**

**Map 221/Lot 002
25 Flagstone Drive**

**Purpose of plan: To construct three separate additions totaling 35,000 ft². to the existing building and to alter paved parking and maneuvering areas.
Hearing. Deferred Date Specific from the 09-22-10 Planning Board Meeting.**

Chairman Russo read aloud the published notice, as repeated above.

Town Planner Cashell said he had nothing to add to the staff report.

Mr. Richard Maynard, professional engineer, of Maynard & Paquette, Engineering Associates, LLC, appearing before the Board as the engineering representative of the applicant, summarized the plan, noting it would provide employment for more than 79

people. He reviewed the intent, saying the Town would not be liable for repairs. He said the parking waiver needed to be dealt with tonight—adding that there was parking for 93 vehicles. He said the Fire Department had signed off and approved the plan.

He said nothing had been heard from the Merrimack River Advisory Committee, but he was hard-pressed to understand why they would have any more comments than Shoreland Protection had had. Mr. Barnes, a member of that committee, provided an E-mail copy of the relevant comments from that group. Mr. Maynard read the document and said it acknowledged that the applicant had to get various permits but otherwise did not say anything. He noted that there was a 50-foot no-touch zone, adding that there also was a walking trail and a conservation easement. Mr. Maynard said the Shoreland Protection Act was a messy, complicated RSA, describing it as “overkill,” and he said they would have to wait to see what the comments were. He then stated they were ready for final approval.

Chairman Russo noted that there was no public in attendance to provide input.

Selectman Maddox said a lot of consternation could be removed by removing the manhole, so that it would be a straight drain. Mr. Maynard said there were two manhole covers inside the building, saying the plan called for a water-tight cover, and there was no reason why anything should be placed in the drain. He said he did not agree with CLD’s comments, saying the concern was misplaced. Selectman Maddox said there was a lot of consternation, asking what the manhole covers were needed for. Mr. Maynard suggested repairs; Selectman Maddox said no one would be going down into a 24-inch pipe. Mr. Maynard said he was a licensed engineer and what Selectman Maddox was asking for was wrong, with misplaced concern.

Mr. Hall moved to grant the requested waiver from the requirements of HTC §275-8 B (26) (g), *Off Street Parking*, citing the reason as being because the majority of manufacturing associated with this development was automated, which reduced the number of needed parking spaces to those shown on the plan and as such, the granting of this waiver was not contrary to the spirit and intent of the Site Plan regulations.

Mr. Barnes seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (6–0).

Chairman Russo asked Mr. Maynard to define what “water-tight” meant. Mr. Maynard said it would be 100%, saying the manhole covers normally had a gasket and were bolted.

Mr. Hall moved to approve the Site Plan entitled **25 Flagstone Drive, Map 221/Lot 002, Hudson, NH**, prepared by Maynard & Paquette, Engineering Associates, LLC, dated August 2, 2010, and revised through September 30, 2010, consisting of Sheets 1 through 6 and Notes 1 through 24, in accordance with the following terms and conditions:

-- FILE COPY --

1. All stipulations of approval shall be incorporated into the Development Agreement, which shall be recorded at the Hillsborough County Registry of Deeds, together with the Site Plan-of-Record.
2. All improvements shown on the Site Plan-of-Record, including Notes 1 through 24, shall be completed in their entirety and at the expense of the applicant or his assigns.
3. The calculated CAP fee of \$50,206.88, prepared in accordance with the 2010 CAP Fee Matrix, shall be submitted to the Town prior to the issuance of the Certificate of Occupancy for each respective phase. [NOTE: said total CAP fee shall be paid in the following manner: the total CAP fee shall be divided by the total square feet of all three additions, and upon the issuance of the Certificate of Occupancy for each addition the respective CAP fee, on a square foot basis, shall be due to the Town. Prior to Planning Board endorsement of the Plan-of-Record, a note to the effect of the foregoing shall be inscribed on said plan, including the total CAP fee sum.]
4. After the issuance of foundation permits for each phase of construction, and prior to the issuance of framing permits, the applicant shall submit to the Hudson Community Development Department foundation "As-Built" plans on a transparency and to the same scale as the approved site plan. The foundation "As-Built" plans shall include all structural dimensions and lot line setback measurements to the foundations and be stamped by a licensed land surveyor. Any discrepancy between the approved site plan and foundation "As-Built" plans shall be documented by the applicant and be part of the foundation "As-Built" submission.
5. Prior to the issuance of a final certificate of occupancy, an LLS-certified "As Built" site plan shall be provided to the Town of Hudson Community Development Department, confirming that the site conforms with the Planning Board approved site plan.
6. On-site landscaping shall be provided for in accordance with the plant and tree species specified on the Site Plan prior to issuance of the Certificate of Occupancy for the first phase.
7. Construction activities on the site shall be limited to between 7:00 a.m. and 7:00 p.m., Monday through Saturday. (No construction activities shall occur on Sundays.)
8. This approval shall be subject to final engineering review, including approval of the SWPPP.
9. The applicant shall be responsible for implementing and maintaining the Stormwater Pollution Prevention Plan (SWPPP).
10. Prior to the Certificate of Occupancy for Addition "B", Town Engineer/DPW will verify integrity of the 24-inch RPC under the said "B" phase.

Selectman Maddox seconded the motion.

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VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (6–0).

XI. DESIGN REVIEW PHASE

No **Design Review Phase** items were addressed this evening.

XII. NEW BUSINESS/PUBLIC HEARINGS

No **New Business** items were addressed this evening.

XIII. CONCEPTUAL REVIEW ONLY

No **Conceptual Review Only** items were addressed this evening.

XIV. OTHER BUSINESS

No **Other Business** items were addressed this evening.

XV. ADJOURNMENT

All scheduled items having been addressed, Mr. Barnes moved to adjourn; Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor.

Chairman Russo then declared the meeting to be adjourned at 11:05 p.m.

Date: March 25, 2011

Vincent Russo, Chairman

J. Bradford Seabury, Recorder

Timothy Malley, Acting Secretary

These minutes were accepted as submitted following review at the 05-25-11 Planning Board meeting.